# ORIGINAL

JAN 1 6 2004

LUTHER D. Waynes, Clerk

THEO IN CLERKIS OFFICE

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

EDWIN BOATRIGHT, IDELL E. :
BOATRIGHT, DENA NICHOLS, :
KATHERINA COURSEY, ANDREA :
BANDERAS, BETTY J. BOWLING, :

Plaintiffs,

v. : CIVIL ACTION

FILE NO. 03 CV 3794 (TWT)

: FILE NO R. J. CORMAN RAILROAD COMPANY, :

LLC/MATERIALS SALES, R. J. :
CORMAN RAILROAD COMPANY, LLC, :
R.J. CORMAN DERAILMENT SERVICES,:
LLC, R.J. CORMAN, R.J. CORMAN :
DISTRIBUTION CENTERS, LLC, :
R.J. CORMAN RAILROAD GROUP, LLC :

R.J. CORMAN RAILROAD GROUP, LLC,:
R.J. CORMAN DERAILMENT SERVICES:
FREIGHT TRANSFER DIVISION,:
R.J. CORMAN DISTRIBUTION:
CENTERS, LLC, R.J. CORMAN:
RAILROAD CONSTRUCTION LLC,:

R.J. CORMAN EQUIPMENT COMPANY, R.J. CORMAN EQUIPMENT COMPANY, LLC,

Defendants.

### DEFENDANTS' INITIAL DISCLOSURES

(1) If the defendant is improperly identified, state defendant's correct identification and state whether defendant will accept service of an amended summons and complaint reflecting the information furnished in this disclosure response.

The only proper defendant in this case is R. J. Corman Railroad Company/Material Sales because at the time of the accident referenced in the complaint, Chad McKinney was operating a truck within the scope of his employment with R. J. Corman Railroad Company/Material Sales. He was not an employee nor was he working on behalf of any of the other named defendants. R. J. Corman Railroad Company/Material Sales will acknowledge service of an Amended Complaint.

(2) Provide the names of any parties whom defendant contends are necessary parties to this action, but who have not been named by plaintiff. If defendant contends that there is a question of misjoinder of parties, provide the reasons for defendant's contention.

#### None.

(3) Provide a detailed factual basis for the defense or defenses and any counterclaims or crossclaims asserted by defendant in the responsive pleading.

Betty Jean Bowling was the sole proximate cause of the collision. Two eyewitnesses to the accident corroborate Chad McKinney's statement that the light for him was green when he entered the intersection.

(4) Describe in detail all statutes, codes, regulations, legal principles, standards and customs or usages, and

illustrative case law which defendant contends are applicable to this action.

### Georgia law of negligence and damages.

- (5) Provide the name and, if known, the address and telephone number of each individual likely to have discoverable information that you may use to support your claims or defenses, unless solely for impeachment, identifying the subjects of the information. (Attach witness list to Initial Disclosures as Attachment A.)
- (6) Provide the name of any person who may be used at trial to present evidence under Rules 702, 703, or 705 of the Federal Rules of Evidence. For all experts described in Fed.R.Civ.P. 26(a)(2)(B), provide a separate written report satisfying the provisions of that rule. (Attach expert witness list and written reports to Initial Disclosures as Attachment B.)

At this time, the defendants have not identified an expert who is expected to testify at the trial. The defendants anticipate that they may call one or more of the plaintiff's health care providers as witnesses in this case.

(7) Provide a copy of, or description by category and location of, all documents, data compilations, and tangible things in your possession, custody, or control that you may use

to support your claims or defenses unless solely for impeachment, identifying the subject of the information.

(Attach document list and descriptions to Initial Disclosures as Attachment C.)

(8) In the space provided below, provide a computation of any category of damages claimed by you. In addition, include a copy of, or describe by category and location of, the documents or other evidentiary material, not privileged or protected from disclosure on which such computation is based, including materials bearing on the nature and extent of injuries suffered, making such documents or evidentiary material available for inspection and copying under Fed.R.Civ.P. 34. (Attach any copies and descriptions to Initial Disclosures as Attachment D.)

### Not applicable.

(9) If defendant contends that some other person or legal entity is, in whole or in part, liable to the plaintiff or defendant in this matter, state the full name, address and telephone number of such person or entity and describe in detail the basis of such liability.

# The Defendants contend that the sole and proximate cause of the accident was the negligence of Betty Jean Bowling.

(10) Attach for inspection and copying as under Fed.R.Civ.P. 34 any insurance agreement under which any person

carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or to indemnify or reimburse for payments to satisfy the judgment.

(Attach copy of insurance agreement to Initial Disclosures as Attachment E.)

DENNIS, CORRY, PORTER & SMITH, L.L.P.

By:

GRANT B. SMITH, ESQ.

For the Firm

Georgia Bar No. 658345 Attorney for Defendants

Piedmont Fourteen 3535 Piedmont Road, Suite 900 Atlanta, Georgia 30305

Telephone: (404) 365-0102 Facsimile: (404) 365-0134

THIS IS TO CERTIFY that, pursuant to LR 5.1B, NDGa., the above document was prepared in Courier New, 12 pt.

### CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing DEFENDANTS' INITIAL DISCLOSURES by depositing same in the United States Mail in a properly-addressed envelope with adequate postage thereon to:

Eric P. von Wiegen, Esq. 2024 Blackhorse Lane Lexington, IY 40503

Kenneth J. Vanderhoff, Esq. 115 West Courthouse Square Cumming, GA 30040

This \_\_\_\_\_\_ day of January, 2004.

GRANT B. SMITH

### ATTACHMENT "A"

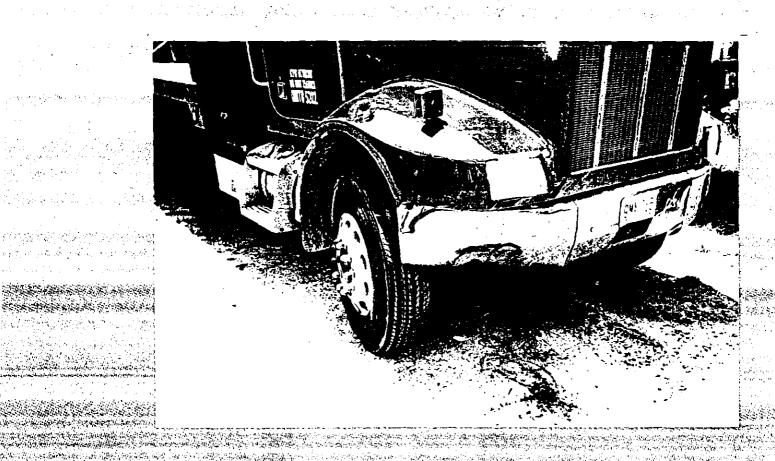
- 1) Chad E. McKinney, 111 Wilkinson Road (lot 8), Palatka, Florida, 23318 (386) 312-0380, eyewitness;
- 2) Darrell Smith, 205 N. Crawford Street, Waycross, Georgia, 31501 (912) 283-0557, eyewitness;
- 3) Susan Dowdy, Route 1, Box 4105, Wayneville, Georgia, 31566 (912) 778-3794, eyewitness;
- 4) Sergeant Robert H. Boyett, Waycross Police Department,
  Investigating police officer;
- 5) Elmore Robertson, eyewitness;
- 6) Idell Boatright, decedent's wife;
- 7) Lt. C.J. Tatum, Waycross Police Department, Investigating police officer;
- 8) Ware County EMS employees, damages, liability;
- 9) Mike's Body Shop employees, damages, liability;
- 10) Blalock's employees;
- 11) Satilla Regional Medical Center employees, damages;
- 12) Health care providers to the plaintiff, damages;
- 13) Employers of Plaintiff Betty Jean Bowling, liability, damages;
- 14) Employers of Plaintiff Boatright, liability, damages;
- 15) Employees of State Farm Insurance, liability, damages.

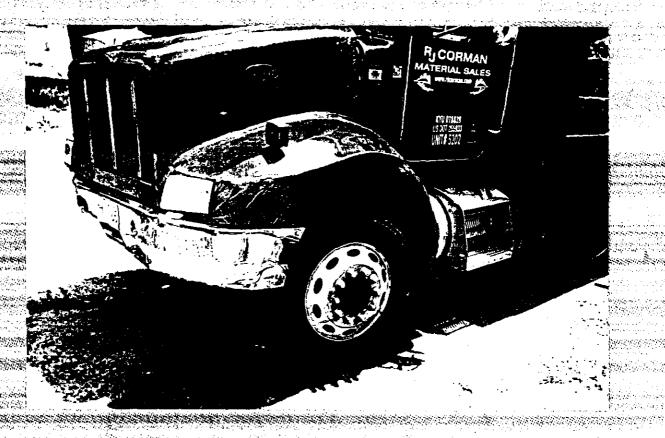
### ATTACHMENT "B"

## ATTACHMENT "C"

See documents attached.

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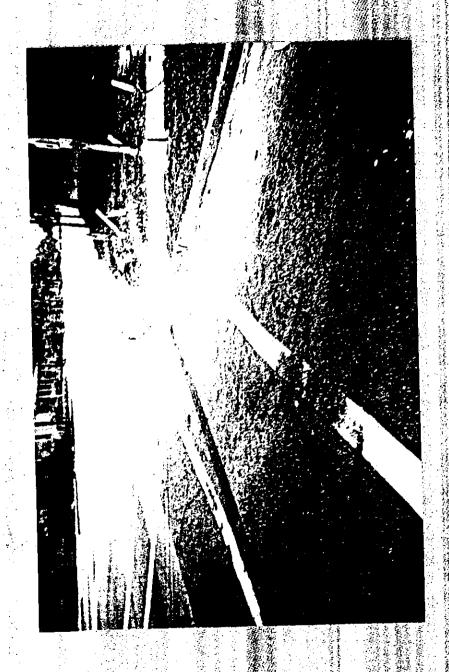




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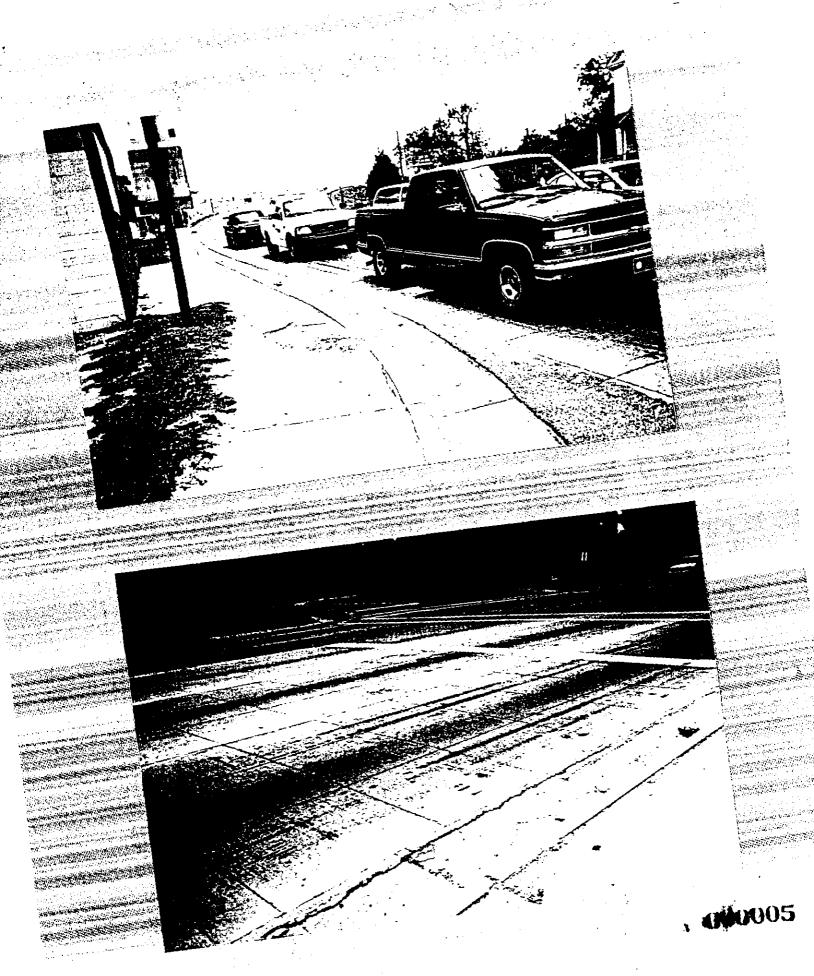




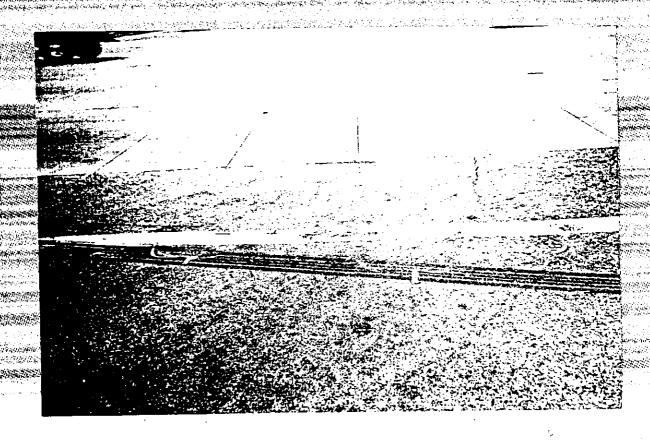












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REMARKS OF PAGE VEHÍCLÉ #1 WAS WESTBOUND ON GA. 520. VEHICLE #2 WAS NORTHBOUND ON MCDONALD ST. THE TWO COLLIDED IN THE INTERSECTION. PASSENGER OF VEHICLE #2 WAS KILLED DURING THE ACCIDENT. DRIVER #1 COMPLAINED OF INJURY TO HIS ARM. DRIVER #2 HAD SERIOUS INJURIES INCLUDING POSSIBLE BROKEN BONES. BOTH DRIVERS WERE TAKEN TO THE SATILLA REGIONAL CENTER FOR TREATMENT. THIS ACCIDENT IS STILL BEING INVESTIGATED. THERE WERE THREE WITNESSES TO THIS ACCIDENT. 6430 912 N INDICATE ON THIS DIAGRAM WHAT HAPPENED INDICATE NORTH N.T. 5 37'SW +'CJ 100 19'L 3718" á 3 📆 Accident Investigation Site? CITATIONS - VEHICLE #\_ CITATIONS - VEHICLE # 2 ☐ Yes Site Number: **Vienther** Road First Harmful Event Treffic Road Comp. Surface Location Light Condition Manner At Area Of Impact Cond Of Collision Defects Flow 11 VEH. # 1 VEH. # 2 Width Of Road SKID DISTANCE Number of Occupants 2 **BEFORE IMPACT** VEH. VEH. Point Of Initial Contact 12 3 VEH. 2 Damage To Vehicles VEH. 2 Damage Other TRAFFIC SIGN Than Vehicle: POR TREAT. EQUIP. AIRI DAG EJECT ECTRIC. CITY OF WAYCROSS 0 Or Pedestrian # 2 Driver # 1 Occupants \_ Or Pedestrian # 2 1 Driver # 2 1 1 3 List Name Address 2 1 3 BOATRIGHT, EDWARD 508 WILLIAMS STR WAYCROSS, GA 31501

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AYCROSS POLICE DEPARTMENT

A1480100;

Supplemental Report

~int~~ Date: 05/31/2002 Time: 11:56 AM

Page 1 of 1

Accident No. 02053239

IN REFERENCE TO CASE #02053239 THESE ARE THE MEASUREMENTS: OFFICER C. WILSON ASSISTED IN THE MEASUREMENTS:

TOTAL TRUCK LENGTH WAS 37 FEET 8 INCHES LONG BETWEEN FRONT AND MIDDLE AXLE WAS 18 FEET 10 INCHES LONG

THE ZERO POINT IS THE APEX OF THE NORTH EAST CURB POINT A WAS THE FRONT PASSENGER SIDE TIRE OF VEHICLE #1 POINT B WAS THE MIDDLE PASSENGER SIDE TIRE OF VEHICLE #1 POINT C WAS THE REAR PASSENGER SIDE TIRE OF VEHICLE #1 POINT D WAS THE FRONT DRIVER SIDE TIRE OF VEHICLE #2 POINT E WAS THE REAR DRIVER SIDE TIRE OF VEHICLE #2 A.O.I. IS THE AREA OF IMPACT (LARGE GOUGE MARK)

A IS 64'8" WEST AND 9'2" NORTH B IS 41'11" WEST AND 4'9" NORTH C IS 37'5" WEST AND 4'0" NORTH D IS 71'3" WEST AND 10'10" NORTH E IS 67'0" WEST AND 18'6" NORTH A.O.I. IS 12'9" WEST AND 9'10" SOUTH

AS OF 5-28-02 AT 2400 HRS TWO WITNESSES INTERVIEWED, B/M ELMORE ROBERTSON AND W/M DARRYL SMITH, GAVE CONFLICTING STORIES. ROBERTSON SAID THAT MCKINNEY HAD A RED LIGHT. SMITH SAID THAT BOWLING HAD A RED LIGHT. BOTH DRIVERS CLAIMED THE RED LIGHT. IT IS STILL BEING INVESTIGATED.

**00**0009

Supplemental Officer Sergeant John D Hampton Badge

Signature

Case 1:03-cv-03794-TWT Document 6 Filed 01/16/04 Page 20 of 57

/AYCROSS POLICE DEPARTMENT A1480100

Supplemental Report

jn-- Date: 05/31/2002 √ii Time: 11:55 AM Page 1 of 1

Accident No. 02053239

ON 05-28-02 I WENT TO THE SATILLA REGIONAL HOSPITAL IN REFERENCE TO THE ACCIDENT THAT OCCURRED ON GA 520 AND MCDONALD ST. I HAD NURSE LAURA TAYLOR DRAW BLOOD FROM BETTY JEAN BOWLING, DRIVER #2, AND CHAD MCKINNEY, DRIVER #1, FOR BLOOD ALCOHOL/DRUGS TESTS. I THEN TOOK THE TEST KITS TO THE POST OFFICE TO BE MAILED.

000010

Supplemental Officer
Police Officer Christopher M Poole

Badge

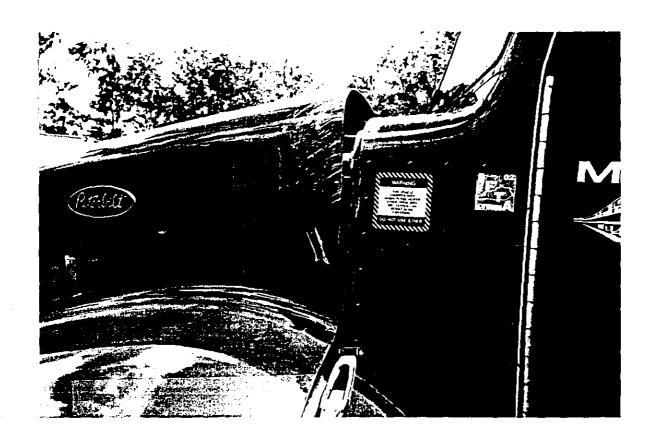
Signature

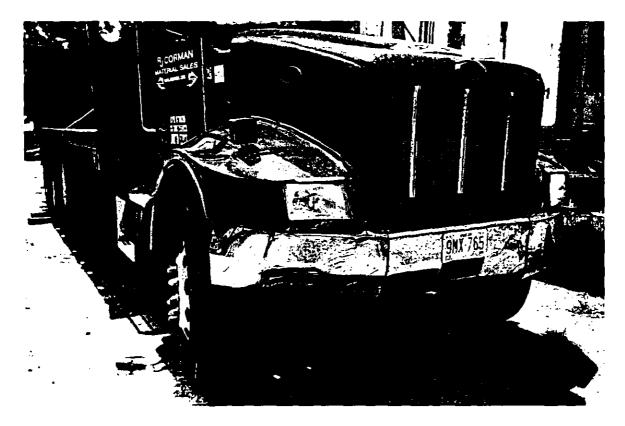
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Case 1:03-cv-03794-TWT Document 6 Filed 01/16/04 Page 22 of 57 GEORGIA UNIFORM Actidore Number Agency NCIC N INÈV Date Rec. By DPS GA1480100 MOTOR VEHICLE ACCIDENT REPORT 02053239 Time CH Arrivad Day of Week Total Mumber 06 inside City Of: Delo Vehicles Injuries Fatalities
2 . 2 1 05/28/2002 18:54 18:54 Waycrocs Th 2 Occurrence GA. 520 AI JU MCDONALD STREET Corrected Report Yes 🛚 1 5 Interminte 2 E Louve St. Rt. 3 E Ca. R010 +Q Oly St 1 Cilmientale 2 D Lovest &L RL \$ D. Ch. Fined 412 City St. Supply To Original 10 North 20 South II Miles \$ 다 타지 4 다 West Yes [ 1 D Intervals 2 D Louiset St. Rt. 5 D Co. Road + Q City St. 4 Ct Ca. Une Intersection But And Continuing in the Direction Checked Above The Next Reference Point is 1 1 Interests 2 Clones St. Rt. 8 🗆 Çq, Ross 40 CV & 8 Ca. Line Madele **Middle** Lest Name MCIGNNEY, CHAD EVERETT 2 **BOWLING, RETTY JEAN** 1 Address Ped 🗆 Ped D 111 WILKINSON RD.(LOT 8) 808 JOHANNA STR State DOM: <del>29</del> 3221\$ PALATKA 01/03/1972 WAYCROSS 02/03/1949 GA 31501 g Maie C2038 Oriver's License No. Ches Title Dever's Ligense No. C Made 029652269 ☐ Female ĞA **3** Female M250105720030 FL Δ INSURANCE AGENCY Policy No. 895979-D17-11A Posted South 35 Polloy No. KJCO4100678 Posted Speed 35 STATE FARM Telephone No. (912)285-5538 Telephone No. (336)312-0380 Node Year Make 1998 PETERBUILT Vode 310 1997 PLYMOUTH BREEZE Yehicle Color BURGANDY 1NPNLD9X7X5485202 RED - RED 1P3EJ46C5VN726225 Tag# 9MX 765 7reler Tag# Course Count 130 F 437 EST KY APPORTIONED 2003 GA WARE 2002 County State County Trailer Tag 🗸 Medie Seme Owner's Last Name First as Dilver BOATRIGHT, EDWARD DEEN I Same Owner's Last Name Prize as Driver R.J. CORMON, MATERIAL SALE Middle P.O. BOX 788 508 WILLIAMS STR Zip 40356 WAYEROSS NICHOLASVILLE \$1501 GA KY Removed By ☐ Request Pl List Respond By ☐ Persuest MIKE'S BODY SHOP BLALOCKS Type Alcohol Test 1 Alcohol Test Results NEGATIVE Doug Test NEGATIVE POSITIVE Contributing Factors Driver Condition 2 Vision Obtcured Oriver Condition 2 Vision Obscured Contributing Feators of Travel of Total 6 Varide Marieumer Vehicle Condition 1 Vehicle Maneuver Valide Condition 1 Pedestrian Pedestran Mareuver Most Harmful Event Vehicle Class 1 Most Harmful Event Yahlda Class Vahice Type Vehicle Type Traffic Control Device Incorporative? D Yes Ø No Traffic Control Device incomplive? ( Yes 2 WARE COUNTY E.M.S. SATILLA REGIONAL MEDICAL CENTER EMS Nothed Time ENS Arrive Time Hossitel Arrival Time E Y Sergeant Robert H Boyett 19:18 18:54 19:00 Report By: Department Report De Date Checked Screent John D Hampton WAYCROSS POLICE DEPARTMENT 05/28/2002 Sergeant John D Hampton 05/29/2002 Zo Case Manageria Name
DARRELL SMITH 205 N CRAWFORD STR. WAYCROSS, GA 31501 (312)283-0557 RT1 BOX 4105 WAYNEVILLE, GA 31568 (912)778-3784 SUSAN DOWDY DPS MICROFILM NUMBER (DO NOT WRITE IN THIS SPACE) COMMUNICIAL VEHICLES CHEY 15.1 Carter Name R.J., CORMON MATERIAL SALE Vehicle # 5202 Cerrior Numo Vehicle # P.O. BOX 788 NICHOLASVILLE, KY 40356 Z Ź'n Carpo Body Type Cargo Body Type Number of Axion Number of Autos J.W.R. Feel Reportable G.V.W.R. Fed. Reportable 52350 LCCMC US DOT 4 ICCMC. ■ 078838 Vendo S.TOO.P.IJ interstate interstate 3 255933 CDL? 1 E Yes 2 D No. C.D.L. Suspended? 10 Yes 25 No **CD17** 10 Yes 2 No C.D.L. Suspended? 10 Yes 28 No Vehicle Placerded? 1 ☐ Yea 2 Ø No 1 E Yes 2 B No Vehicle Phoneded? Hazardous Materials? 1 T Yes 2 M No 1 D Yes If YES, Name or 4 Digit Number from Diamond or Box. 1 Digit Number from Bottom of Diamond: If YES, Name or 4 Digs Number from Diamond or Box.
1 Digs Number from Septem of Diamo Down Hill Runaway - Cargo Loss Or Shift Ran Off Road Down Hit Ran Off Road Cargo Less Or Shift Secure Pon Separation Of Units

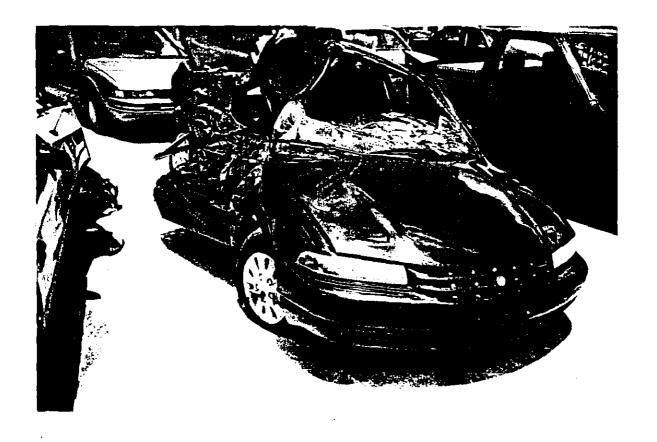








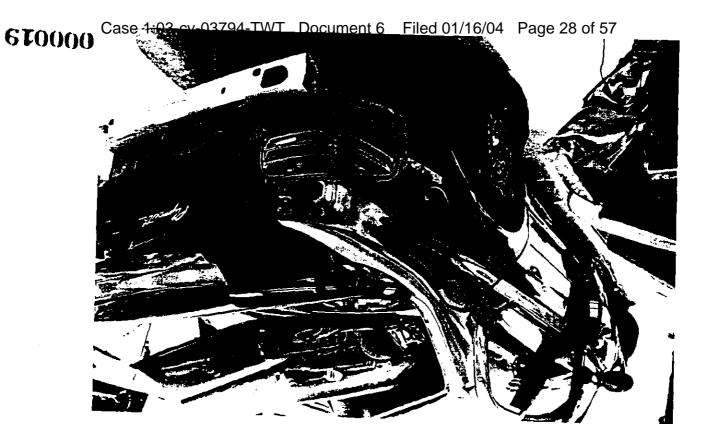


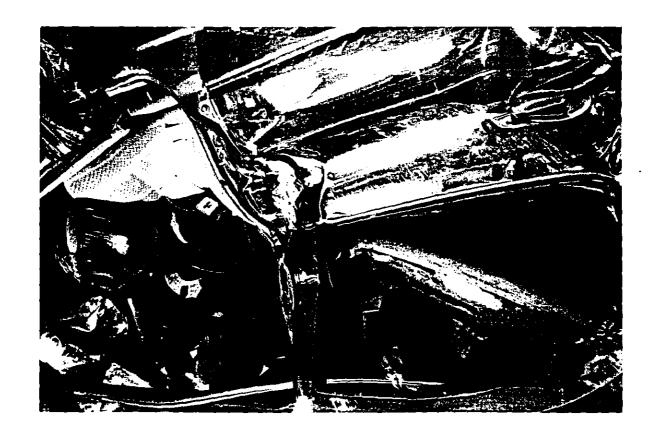








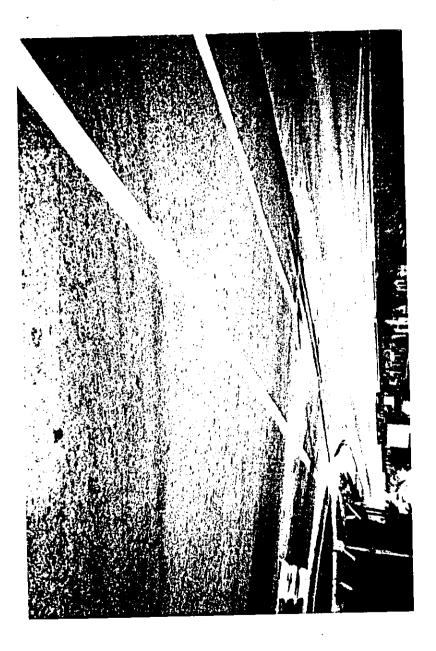




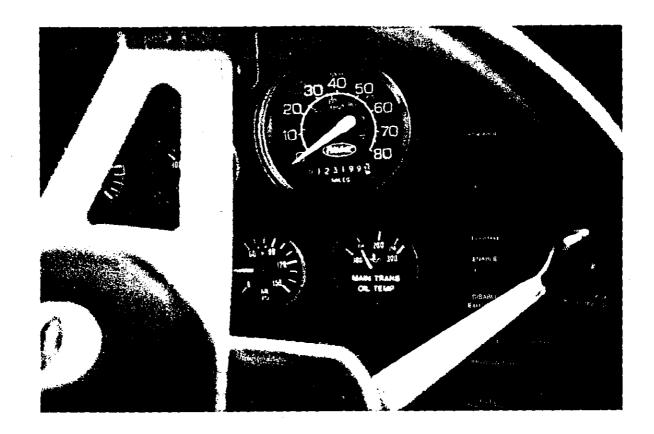




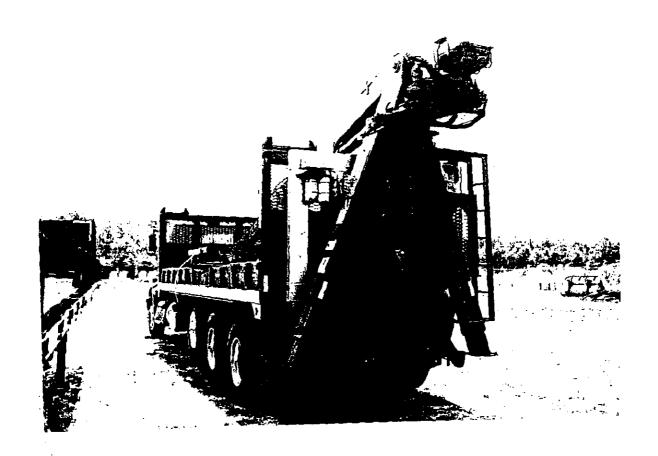




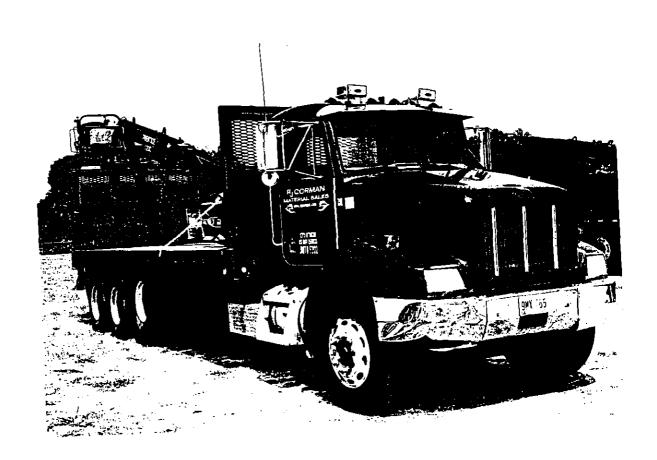


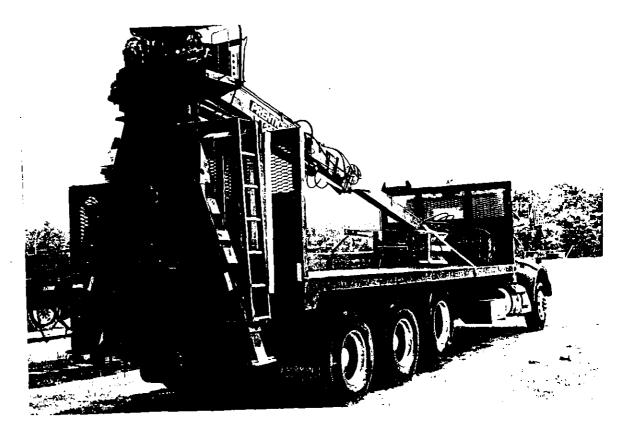




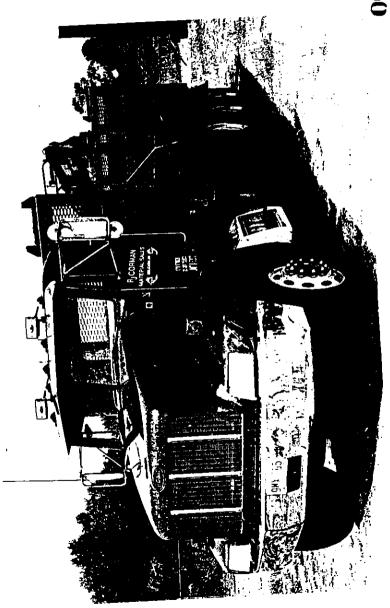


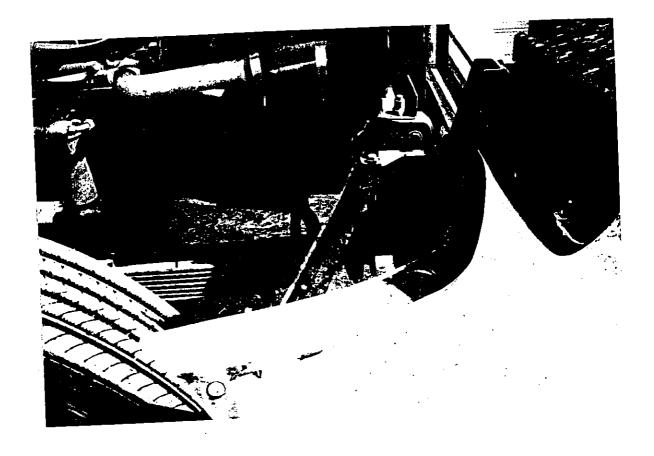




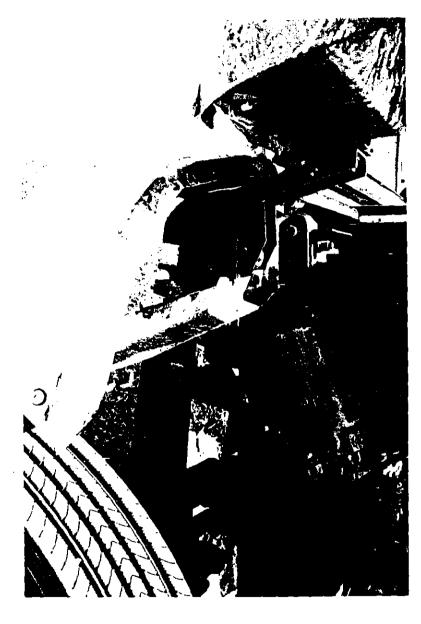


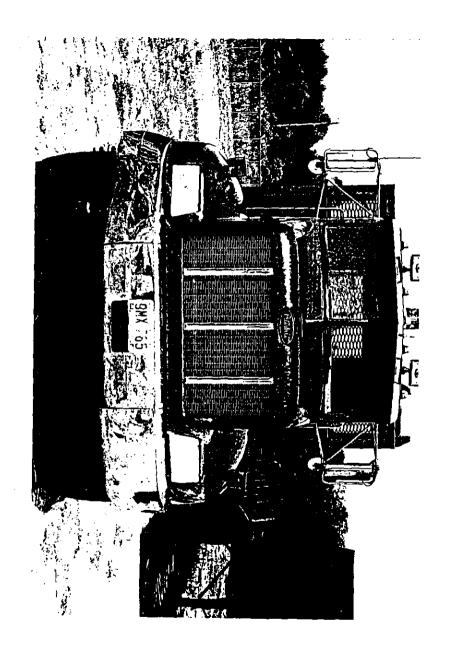


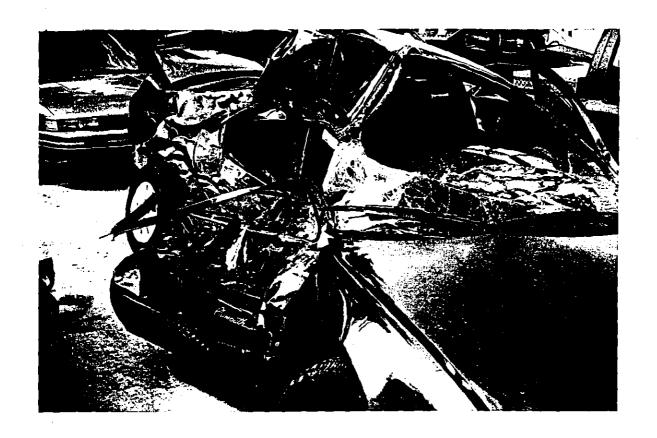






















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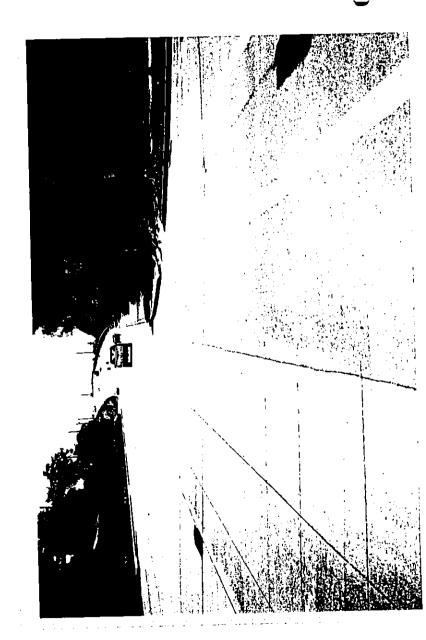


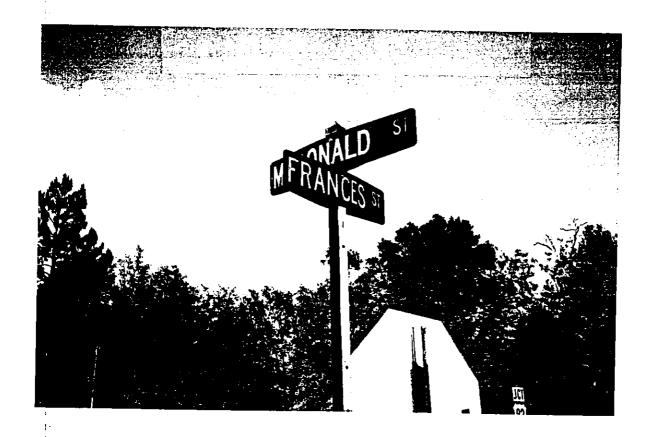
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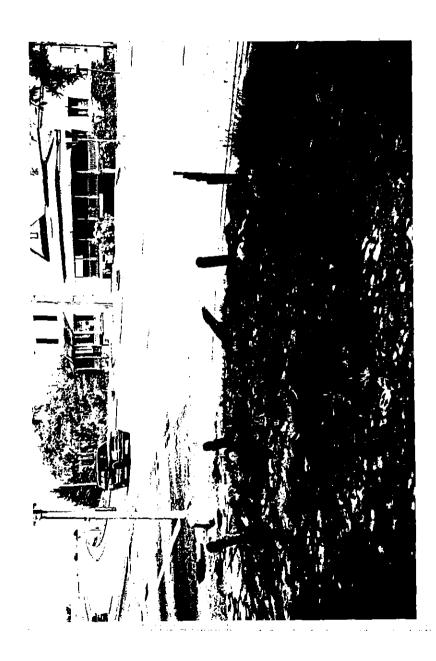






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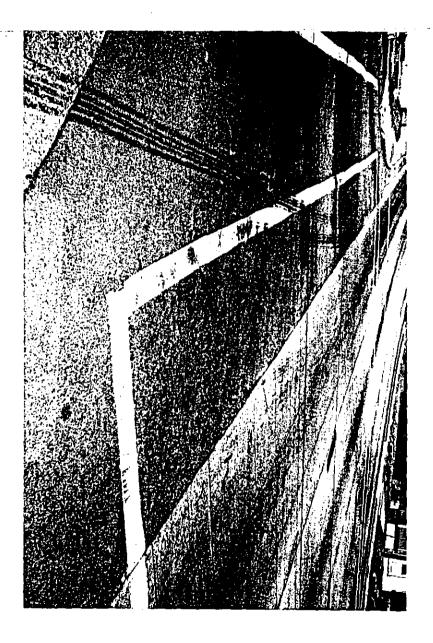


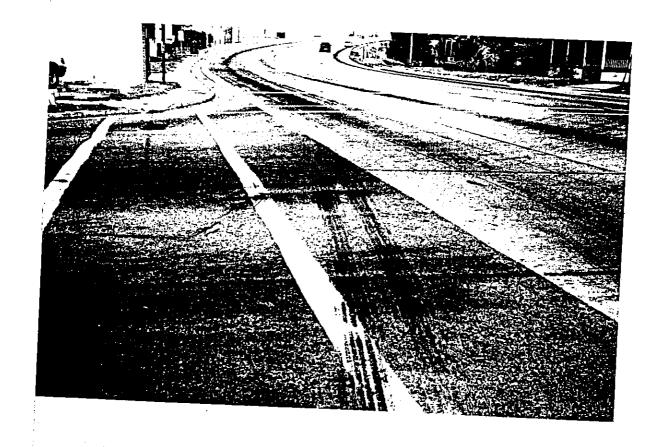


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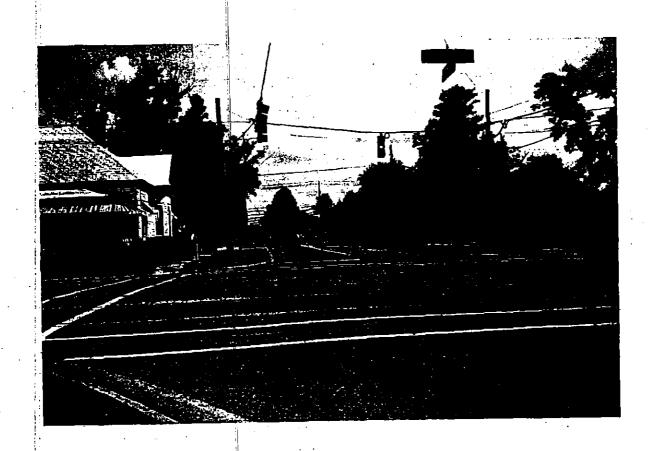






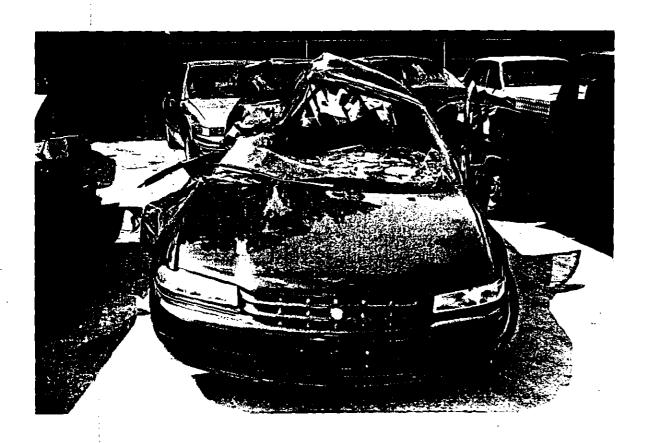












## ATTACHEMENT "E"

Defendants will supplement the required documents upon receipt.